

Notice of Allowability

Application No.

09/865,321

Examiner

ILIA OUSPENSKI

Applicant(s)

PEACH ET AL.

Art Unit

1644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 10/24/2005 and 01/13/2006.
2. ☒ The allowed claim(s) is/are 67 - 80, 86, 95 - 96, 104 - 109, 113 - 114, and 116 - 132, renumbered 1 - 42.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 10/24/05, 12/5/05, 1/13/06, 1/23/06.
- ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
- ☐ Notice of Informal Patent Application (PTO-152)
- ☒ Interview Summary (PTO-413),
Paper No./Mail Date 03/10/2006.
- ☒ Examiner's Amendment/Comment
- ☒ Examiner's Statement of Reasons for Allowance
- ☐ Other _____.

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/24/2005 has been entered.

2. Applicant's amendments/remarks, filed 10/24/2005 and 01/13/2006, are acknowledged, and have been entered.

Claims 1 – 66, 94, 97 – 103, 110 – 112, and 115 have been cancelled previously.

Claims 70, 74, 78, 95, 96, and 114 have been amended.

Claims 116 – 126 have been added.

Claims 127 – 132 are added by the Examiner's amendment set forth herein.

Claims 67 – 93, 95 – 96, 104 – 109, 113 – 114, and 116 – 132 are pending.

Claims 81 – 85 and 87 – 93 have been withdrawn from consideration by the Examiner as being drawn to nonelected inventions.

Claims 67 – 80, 86, 95 – 96, 104 – 109, 113 – 114, and 116 – 132 are under consideration in the instant application.

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3. Applicant's IDS documents, filed 10/24/2005, 12/05/2005, 01/13/2006, and 01/23/2006, are acknowledged, and have been considered. The information submitted in the cover letters accompanying the IDS documents filed 10/24/2005 and 01/23/2006 has been considered; however, the corresponding statements on forms 1449 have been lined through and not initialed by the Examiner, because they are not citable on IDS. See 37 CFR 1.98. Exhibits 195 – 247, listed on IDS filed 10/24/2005, have been considered and initialed by the Examiner, but lined through, as they are not appropriate for printing on the face of a Patent.

4. An Examiner's Amendment to the record appears below. Should the changes and/or additions be unacceptable to Applicant, an amendment may be filed as provided by 37 C.F.R. § 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the Issue Fee.

5. Authorization for this Examiner's Amendment was given in a telephone interview with Audrey F. Sher on 03/10/2006.

Examiner's Amendment

In the Specification:

6. In the TITLE: the phrase "and uses thereof" has been deleted.

In the Claims:

7. Claims 81 – 85 and 87 – 93 have been canceled.

8. In claims 96, 114, 116, 117, and 118, the phrase "74," has been deleted.

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9. New claims 127 – 132 have been added:

--- 127. A pharmaceutical composition comprising a CTLA4 mutant molecule of claim 74 and a pharmaceutically acceptable carrier.

128. The CTLA4 mutant molecule of claim 74 that is soluble.

129. The CTLA4 molecule of claim 74 that is substantially pure.

130. The CTLA4 mutant molecule of claim 74, wherein the CTLA4 mutant molecule is a dimer.

131. The CTLA4 mutant molecule of claim 74, wherein the CTLA4 mutant molecule has a molecular mass of about 100 kilodaltons.

132. The CTLA4 mutant molecule of claim 131, wherein the molecular mass is assessed by SDS-PAGE under non-reducing conditions. ---

Reasons for Allowance

10. The following is an Examiner's Statement of Reasons for Allowance:

The Examiner's Amendment set forth supra, in conjunction with Applicant's amendment and arguments filed 10/24/2005 and 01/13/2006, and information submitted on IDS documents filed 10/24/2005, 12/05/2005, 01/13/2006, and 01/23/2006, have obviated the previous rejection of record, mailed 09/27/2004.

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Claims 67 – 80, 86, 95 – 96, 104 – 109, 113 – 114, and 116 – 132 are pending and allowed.

The prior art does not teach or suggest the claimed mutant CTLA4 molecules.

11. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ILIA OUSPENSKI whose telephone number is 571-272-2920. The examiner can normally be reached on Monday-Friday 9 - 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached on 571-272-0841. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ILIA OUSPENSKI, Ph.D.

Patent Examiner

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March 13, 2006


PHILLIP GAMBEL, PH.D. JD
PRIMARY EXAMINER
TZ 1600
3/13/06